



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R04-RCRA-2009-0961; FRL-9806-9]

Georgia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Georgia has applied to EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final rule. In the "Proposed Rules" section of today's **Federal Register**, EPA is also publishing a separate notice that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Georgia's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a notice in the **Federal Register** withdrawing today's immediate final rule before it takes effect, and the separate notice published in today's "Proposed Rules" section of this **Federal Register** will serve as the proposal to authorize the changes.

DATES: This final authorization will become effective on *[insert date 60 days after the date of publication]* unless EPA receives adverse written comment by *[insert date 30 days after the date of publication]*. If EPA receives such comment, EPA will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2009-0961, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- E-mail: gleaton.gwen@epa.gov
- Fax: (404) 562-9964 (prior to faxing, please notify the EPA contact listed below).
- Mail: Send written comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
- Hand Delivery or Courier: Deliver your comments to Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

Instructions: EPA must receive your comments by *[insert date 30 days after the date of publication]*. Please refer to Docket Number EPA-R04-RCRA-2009-0961. Do not submit information that you consider to be confidential business information or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-

mail address will be automatically captured and included as part of the comment that is placed in the public docket and made publicly available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You may view and copy Georgia's applications and associated publicly available materials from 8:00 a.m. to 4:00 p.m. at the following locations: EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8500; and the Georgia Department of Natural Resources, Environmental Protection Division, 2 Martin Luther King, Jr. Drive, Suite 1154 East Tower, Atlanta, Georgia 30334-4910; telephone number: (404) 656-2833. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Gleaton, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8500; fax number: (404) 562-9964; e-mail address: gleaton.gwen@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized States at the same time that they take effect in unauthorized States. Thus, EPA will implement those requirements and prohibitions in Georgia, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

B. What Decisions Has EPA Made in this Rule?

On January 8, 2007, and August 14, 2008, Georgia submitted final complete program revision applications, seeking authorization of changes to its hazardous waste program. EPA concludes that Georgia's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, EPA grants Georgia final authorization to operate its hazardous waste program with the

changes described in the authorization applications, and as outlined below in Section G of this notice.

Georgia has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of HSWA, as discussed above.

C. What is the Effect of this Authorization Decision?

The effect of this decision is that the changes described in Georgia's authorization applications will become part of the authorized State hazardous waste program, and will therefore be federally enforceable. Georgia will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- conduct inspections, and require monitoring, tests, analyses or reports;
- enforce RCRA requirements, including authorized State program requirements, and suspend or revoke permits; and
- take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the State regulations for which Georgia is being authorized by today's action are already effective and enforceable requirements under State law, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

Along with this immediate final rule, EPA is publishing a separate notice in the "Proposed Rules" section of today's **Federal Register** that serves as the proposal to authorize these State program changes. EPA did not publish a proposed rule before today because EPA views this as a routine program change and does not expect comments that oppose this approval. EPA is providing an opportunity for public comment now, as described in Section E of this notice.

E. What Happens if EPA Receives Comments that Oppose this Action?

If EPA receives comments that oppose this authorization, EPA will withdraw today's immediate final rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposed rule mentioned in the previous section, after considering all comments received during the comment period, and will address all such comments in a later final rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw that part of today's immediate final rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What has Georgia Previously been Authorized for?

Georgia initially received final authorization on August 7, 1984, effective August 21, 1984 (49 FR 31417), to implement a hazardous waste management program. EPA granted authorization for changes to Georgia's program on the following dates: July 7, 1986, effective September 18, 1986 (51 FR 24549); July 28, 1988, effective September 26, 1988 (53 FR 28383); July 24, 1990, effective September 24, 1990 (55 FR 30000); February 12, 1991, effective April 15, 1991 (56 FR 5656); May 11, 1992, effective July 10, 1992 (57 FR 20055); November 25, 1992, effective January 25, 1993 (57 FR 55466); February 26, 1993, effective April 27, 1993 (58 FR 11539); November 16, 1993, effective January 18, 1994 (58 FR 60388); April 26, 1994, effective June 27, 1994 (59 FR 21664); May 10, 1995, effective July 10, 1995 (60 FR 24790); August 30, 1995, effective October 30, 1995 (60 FR 45069); March 7, 1996, effective May 6, 1996 (61 FR 9108); September 18, 1998, effective November 17, 1998 (63 FR 49852); October 14, 1999, effective December 13, 1999 (64 FR 55629); November 28, 2000, effective March 30, 2001 (66 FR 8090); July 16, 2002, effective September 16, 2002 (67 FR 46600); November 19, 2002, effective January 21, 2003 (67 FR 69690); July 18, 2003, effective September 16, 2003 (68 FR 42605); January 27, 2005, effective April 20, 2005 (70 FR 12973); and April 25, 2006, effective June 26, 2006 (71 FR 23864).

G. What Changes is EPA Authorizing with this Action?

On January 8, 2007, and August 14, 2008, Georgia submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written

comments that oppose this action, that Georgia's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Georgia final authorization for the following program changes:

| Description of Federal Requirement | <u>Federal Register</u> Date and Page | Analogous State Authority¹ |
|---|--|--|
| 207 - Uniform Hazardous Waste Manifest Rule | 70 FR 10776 03/04/05 70 FR 35034 06/16/05 | 391-3-11-.02(1); 391-3-11-.07(1); 391-3-11-.08(1); 391-3-11-.09; and 391-3-11-.10(1) and (2) |
| 208 - Methods and Innovation Rule and SW-846 Final Update IIIB | 70 FR 34538 06/14/05 70 FR 44150 08/01/05 | 391-3-11-.02(1); 391-3-11-.07(1) and (2); 391-3-11-.10(1), (2) and (3); 391-3-11-.11(3)(h); 391-3-11-.11(10); 391-3-11-.16; and 391-3-11-.17 |
| 209 - Universal Waste Rule; Specific Provisions for Mercury Containing Equipment | 70 FR 45508 08/05/05 | 391-3-11-.02(1); 391-3-11-.07(1); 391-3-11-.10(1) and (2); 391-3-11-.16; and 391-3-11-.18 |
| 211 - Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks exemptions") | 70 FR 57769 10/04/05 | 391-3-11-.07(1) |
| 212 - NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) | 70 FR 59402 10/12/05 | 391-3-11-.02(1); 391-3-11-.10(1), (2) and (3); 391-3-11-.11(3)(c) and (h); 391-3-11-.11(5)(c); 391-3-11-.11(7)(d); and 391-3-11-.11(10) and (13) |
| No Checklist - Identification and Listing of Hazardous Waste (CFR Correction) | 70 FR 60217 10/17/05 | 391-3-11-.07(1) |
| 214 - Corrections to Errors in the Code of Federal Regulations | 71 FR 40254 07/14/06 | 391-3-11-.02(1); 391-3-11-.05(1); 391-3-11-.07(1) and (2); 391-3-11-.08(1); 391-3-11-.10(1), (2) and (3); 391-3-11-.11(1)(a); 391-3-11- |

| | | |
|--|-------------------------|---|
| | | .11(3)(c), (d), (f), (g) and (h); 391-3-11-.11(5)(d); 391-3-11-.11(7)(c) and (d); 391-3-11-.11(11) and (12); 391-3-11-.16; 391-3-11-.17; and 391-3-11-.18 |
| 215 - Cathode Ray Tubes Rule | 71 FR 42928 07/28/06 | 391-3-11-.02(1) and 391-3-11-.07(1) |
| No Checklist - Standards for Universal Waste Management (CFR Correction) | 72 FR 35666 06/29/07 | 391-3-11-.18 |

¹ The Georgia provisions analogous to the Uniform Hazardous Waste Manifest Rule and the Universal Waste Rule were effective March 13, 2006. The Georgia provisions analogous to the remaining Federal requirements were effective June 23, 2008.

H. Where are the Revised State Rules Different from the Federal Rules?

There are no State requirements in this program revision considered to be more stringent or broader in scope than the Federal requirements.

While Georgia has adopted the necessary regulations to receive authorization for the Uniform Hazardous Waste Manifest Rule set forth in 70 FR 10776, March 4, 2005, EPA cannot delegate the Federal manifest registry functions or the export or import provisions contained in such rule. As a result, EPA will continue to implement these requirements. Similarly, EPA cannot delegate the Federal requirements at 40 CFR 261.39(a)(5), 261.40 and 261.41 contained in the Cathode Ray Tubes Rule set forth in 71 FR 42928, July 28, 2006. While Georgia has properly adopted these requirements by reference at Georgia Hazardous Waste Management Rule 391-3-11-.07(1), EPA will continue to implement these requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Georgia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Georgia is not authorized.

J. What is Codification and is EPA Codifying Georgia's Hazardous Waste Program as Authorized in this Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Georgia's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart L, for the authorization of Georgia's program changes at a later date.

K. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those

imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the

use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective [*Insert date 60 days from date of publication*], unless objections to this authorization are received.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: March 28, 2013.

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

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